

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JEROME D. CLARK,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 00-572-SLR
	)	
JAMES DESHIELDS, SHIRLEY	)	
RUFFIN, TASHA MALONE, ANGIE	)	
WHITE, CAROLYN WOLF, CMS,	)	
SBF, and SBS,	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

At Wilmington this 19th day of March 2001, having reviewed plaintiff's motion for an injunction (D.I. 4);

IT IS ORDERED that the motion for injunction is denied for the following reasons:

1) It is beyond dispute that "the grant of injunctive relief is an 'extraordinary remedy, which should be granted only in limited circumstances.'" Frank's GMC Truck Center, Inc. v. General Motors Corp., 847 F.2d 100, 102 (3d Cir. 1988). In ruling on a motion for an injunction, this court must consider: 1) the likelihood of success on the merits; 2) the extent to which the plaintiff is being irreparably harmed by the conduct complained of; 3) the extent to which the defendant will suffer irreparable harm if the requested relief is granted; and 4) the public interest. See A.O. Smith Corp. v. F.T.C., 530 F.2d 515 (3d Cir. 1976). While these factors are all relevant to the

inquiry, no one element will determine its outcome; all must be balanced. Id. at 525.

2) Plaintiff, Jerome Clark, is a prisoner at the Multi Purpose Criminal Justice Facility ("Gander Hill"). The defendants are counselors at the KEY Program at Gander Hill. Plaintiff was moved out of the KEY Program, a "family type environment, self-sustaining and self perpetuating Therapeutic Community," without notice or a hearing. (D.I. 10) He alleges this violates his due process rights. Plaintiff filed this motion for injunctive relief to have the court reinstate him as a member of the KEY Program.

3) Prison inmates have no constitutional right to drug treatment or other rehabilitation. Abdul-Akbar v. Department of Corrections, 910 F. Supp. 986, 1002 (D.Del. 1995). In order for plaintiff to state a claim that he was deprived of rehabilitation without due process, he must have a property or liberty interest in the opportunity. Id. (citing James v. Quinlan, 866 F.2d 627, 629 (3d. Cir. 1989)). The due process clause alone does not give plaintiff such an interest. Id. To establish a property or liberty interest, plaintiff must establish either that he has a "legitimate claim of entitlement," Board of Regents v. Roth, 408 U.S. 564, 577 (1972), or that failing to have the opportunity constitutes an "atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life." Sandin v. O'Conner, 515 U.S. 472, 479-481 (1995). Because the KEY program

is not a mandatory activity and membership in the program is at the discretion of the prison officials, plaintiff cannot claim a property or liberty interest in the program. Therefore, plaintiff is not entitled to notice or a hearing before he is removed from the program.

4) Plaintiff has failed to demonstrate either a likelihood of succes on the merits or irreperable harm. Therefore, his motion for an injunctive relief is denied.

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United States District Court